



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 8, 1998

H.R. 2863
Migratory Bird Treaty Reform Act of 1998

*As reported by the Senate Committee on Environment and Public Works on
October 5, 1998*

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 2863 would cost the U.S. Fish and Wildlife Service (USFWS) less than \$200,000 over the next five years to prepare a report on migratory bird conservation issues. Because sections 2 and 3 of the legislation may affect receipts from criminal fines, pay-as-you-go procedures would apply. We estimate that any changes in receipts would be negligible, however, and would be largely offset by resulting changes in direct spending from the Crime Victims Fund (into which criminal fines are deposited). H.R. 2863 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Section 2 of H.R. 2863 would codify a standard for determining when someone is guilty of hunting migratory birds over an area baited with bird feed. At present, there is no statutory rule for deciding the issue; thus, the standard is determined by the courts and differs from jurisdiction to jurisdiction. In most areas of the country, courts usually apply strict liability—anyone found hunting over a baited field is guilty of violating federal law whether the person knew that the area was baited or not. In contrast, H.R. 2863 would establish a national standard, presently applied in only a few states, that would make it unlawful for a person to hunt over a field only if that person knows or reasonably should know that the area is baited.

It is possible that applying a new national standard regarding the hunting of migratory birds, as would be required by section 2, could make it more difficult for some prosecutors to prove that the law has been violated, resulting in fewer convictions in some states. CBO estimates, however, that the aggregate decrease in federal revenues from fines would be insignificant because the overall conviction rate would be unlikely to fall by much—these rates are already extremely high in all states, regardless of which standard is applied.

Similarly, CBO estimates that section 3 of this legislation, which would raise from \$500 to \$10,000 the maximum criminal penalty for certain violations of the Migratory Bird Treaty Act, would not cause any significant increase in revenues from fines because we expect that prosecutors would be very unlikely to ask for higher penalties than they currently seek. (The government rarely imposes the current \$500 maximum fine in the more than 1,000 cases it prosecutes annually.) In any case, changes in revenues from enacting H.R. 2863 would result in offsetting changes in direct spending from the Crime Victims Fund.

This estimate is based on information provided by the USFWS, the Office of Management and Budget, and federal law enforcement officers.

On May 14, 1998, CBO prepared a cost estimate for H.R. 2863, as ordered reported by the House Committee on Resources on April 29, 1998. This estimate, for the Senate version of H.R. 2863, differs from the previous one because it includes the budgetary effects of two added provisions: the reporting requirement contained in section 4 and the increase in certain maximum penalties contained in section 3.

The CBO staff contacts for this estimate are Deborah Reis (for federal costs) and Hester Grippando (for revenues). This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.